

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

KEVIN DENEEN MYERS, #1769501

§

VS.

§

CIVIL ACTION NO. 6:16cv1130

SANDRA BROADUS, ET AL.

§

MEMORANDUM OPINION ADOPTING THE REPORT
OF THE UNITED STATES MAGISTRATE JUDGE

Plaintiff Kevin D. Myers, proceeding *pro se* and *in forma pauperis*, filed this civil rights lawsuit under 42 U.S.C. § 1983 complaining of alleged deprivations to his constitutional rights. The case was referred to the United States Magistrate Judge, the Honorable John D. Love.

On June 8, 2018, Defendant Aya filed a motion to dismiss, (Dkt. #22). On October 19, 2018, Plaintiff filed a motion to amend—indicating that he erroneously named Defendant Aya as a defendant, (Dkt. #28). Plaintiff filed his amended complaint the same day, eliminating Defendant Aya from his complaint. Subsequently, on November 9, 2018, Judge Love issued a Report, (Dkt. #33), recommending that Defendant Aya be dismissed as a defendant upon Plaintiff's motion to amend. The docket shows that Plaintiff received a copy of this Report on November 14, 2018, (Dkt. #35). However, to date, no objections to the Report have been filed.

Consequently, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #33), is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that Defendant Aya's motion to dismiss, (Dkt. #22), is **GRANTED**. Defendant Aya is **DISMISSED** as a defendant in this civil rights action.

So **ORDERED** and **SIGNED January 7, 2019**.



Ron Clark, Senior District Judge